

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Roanoke Division**

**HELEN FARRAR-CLARY,**

**Plaintiff,**

**v.**

**THE BOYD CORPORATION, SOUTH  
HILL, VIRGINIA,**

**Defendant.**

**Case No. 7:19CV298**

**NOTICE OF REMOVAL**  
**[28 U.S.C. §§ 1331, 1441, and 1446]**

TO: THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE WESTERN  
DISTRICT OF VIRGINIA

Defendant The Boyd Corporation of South Hill, Virginia (“Boyd Corp.” or “the Company”) hereby removes the action commenced by Plaintiff, Helen Farrar-Clary, from the Circuit Court of the City of Roanoke, Virginia, to the United States District Court for the Western District of Virginia. In support thereof, Boyd Corp. states as follows:

**REMOVAL IS TIMELY**

1. Plaintiff filed a civil action on February 21, 2019, which is now pending in the Circuit Court of the City of Roanoke, Virginia, File No. CL18-00447. Boyd Corp. was served with the Complaint on February 19, 2019, three (3) days before it was filed. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders from the state court file are attached hereto as Exhibit 1.

2. On March 7, 2019, the parties filed a consent motion for an extension of time for Boyd Corp. to answer or otherwise respond to Plaintiff's Complaint. That motion was granted on March 14, 2019.

3. On March 11, 2019, Plaintiff filed an Amended Complaint, adding claims for alleged discrimination, retaliation, and hostile work environment under Title VII of the Civil Rights Act of 1964, as amended ("Title VII").

4. This Notice of Removal is being filed within thirty (30) days of Boyd Corp.'s receipt of the Amended Complaint on March 11, 2019, as required by 28 U.S.C. § 1446(b). Boyd Corp. hereby reserves any and all rights to assert the insufficiency of process or insufficiency of service of process as defenses to Plaintiff's Amended Complaint.

5. Following Plaintiff's filing of her Amended Complaint, the parties again filed a consent motion for extension of time for Boyd Corp. to answer or otherwise respond to Plaintiff's Amended Complaint. That motion was granted on April 1, 2019.

6. No further pleading has been had in the Circuit Court for the City of Roanoke, Virginia as of the date of the filing of this Notice of Removal.

FEDERAL QUESTION JURISDICTION EXISTS

7. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1441, in that Plaintiff's Complaint contains claims arising under the Constitution, laws, or treaties, of the United States.

8. Plaintiff has filed claims for discrimination, retaliation, and hostile work environment under Title VII, as a result, federal question jurisdiction exists.

9. Venue is proper in this District pursuant to 28 U.S.C. § 1441(a) because this District embraces the place where the removed state court action is pending.

10. In view of the above facts, this is a civil action of which this Court has original jurisdiction under the provisions of 28 U.S.C. §§ 1331 and 1332 and is, therefore, one which may be removed to this Court by Boyd Corp. pursuant to the provisions of 28 U.S.C. § 1441.

11. Consistent with 28 U.S.C. § 1446(d), Boyd Corp. is filing a copy of this Notice of Removal with the Clerk of Court for the Circuit Court for the City of Roanoke, Virginia. A copy is attached hereto as Exhibit 2.

12. Boyd Corp. reserves the right to amend or supplement this Notice of Removal.

13. Boyd Corp. reserves all defenses, and the filing of this Notice of Removal is without waiver of any defenses.

WHEREFORE Defendant Boyd Corporation of South Hill, Virginia prays that the above action now pending against it in the Circuit Court for the City of Roanoke, Virginia be removed to this Court.

Dated: April 10, 2019

Respectfully Submitted,

**THE BOYD CORPORATION,  
SOUTH HILL, VIRGINIA**

By /s/ J. Clay Rollins

Phillip J. Strach  
North Carolina Bar No. 29456  
Brodie D. Erwin  
North Carolina Bar No. 44368  
4208 Six Forks Road, Suite 1100  
Raleigh, North Carolina 27609  
Telephone: (919) 787-9700  
Facsimile: (919) 783-9412  
Phil.Strach@odnss.com  
Brodie.Erwin@odnss.com

*Pro Hac Vice application pending per L.R. 6(d)*

J. Clay Rollins, Esquire  
Virginia State Bar Number 84382  
[clay.rollins@ogletreedeakins.com](mailto:clay.rollins@ogletreedeakins.com)  
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.  
901 East Byrd Street, Suite 1300  
Riverfront Plaza, West Tower  
Richmond, VA 23219  
Tel.: (804) 663-2332  
Fax: (855) 843-1809

*Counsel for Defendant*

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 10<sup>th</sup> day of April, 2019, I electronically filed the foregoing with the Clerk of the court using the CM/ECF system which will send notification of such filing to counsel for Plaintiff:

Thomas E. Strelka, Esquire  
Virginia State Bar Number 75488  
[thomas@strelkalaw.com](mailto:thomas@strelkalaw.com)  
L. Leigh R. Strelka, Esquire  
[leigh@strelkalaw.com](mailto:leigh@strelkalaw.com)  
Virginia State Bar Number 73355  
STRELKA LAW OFFICE, P.C.  
Warehouse Row  
119 Norfolk Avenue, S.W., Suite 330  
Roanoke, VA 24011  
Tel.: (540) 283-0802

*Counsel for Plaintiff*

**THE BOYD CORPORATION,  
SOUTH HILL, VIRGINIA**

By /s/ J. Clay Rollins  
J. Clay Rollins, Esquire  
Virginia State Bar Number 84382  
[clay.rollins@ogletreedeakins.com](mailto:clay.rollins@ogletreedeakins.com)  
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.  
901 East Byrd Street, Suite 1300  
Riverfront Plaza, West Tower  
Richmond, VA 23219  
Tel.: (804) 663-2332  
Fax: (855) 843-1809

*Counsel for Defendant*

38098086.1